For over 70 years following the adoption of the Federal Rules, the Supreme Court of the U.S. consistently and faithfully implemented Rule 8's notice-pleading language. Its leading decision on the subject, *Conley* v. *Gibson*, 355 U.S. 41, 1957, prohibited federal courts from dismissing a complaint ''for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief.''

Two years ago in *Bell Atlantic Corporation* v. *Twombly*, 550 U.S. 544, 2007, the Court jettisoned the standard set forth in Conley and announced that henceforth it would require not only factual specificity in complaints not previously required of plaintiffs, but also that a complaint's allegation of wrongdoing appear ''plausible'' to the court. This year in *Ashcroft* v. *Iqbal*, 129 S. Ct. 1937, 2009, the Supreme Court significantly expanded upon Twombly by, to quote Professor Stephen Burbank of the University of Pennsylvania Law School, effectively authorizing federal judges to indulge their ''subject judgments'' in evaluating an allegation's plausibility. According to an article that just appeared in The York Times, Justice Ruth Bader Ginsburg recently told a group of Federal judges that, as a result of these two cases, the Supreme Court has ''messed up the federal rules'' governing pleading.

When it passed the Rules Enabling Act, Congress established a carefully designed process for amending the Federal Rules of Civil Procedure. The process ends with the Supreme Court's presentation of a proposed rule change to Congress for approval. In Twombly and Ashcroft the Court effectively end ran that process.

The effect of the Court's actions will no doubt be to deny many plaintiffs with meritorious claims access to the Federal courts and, with it, any legal redress for their injuries. I think that is an especially unwelcome development at a time when, with the litigating resources of our executive-branch and administrative agencies stretched thin, the enforcement of Federal antitrust, consumer protection, civil rights and other laws that benefit the public will fall increasingly to private litigants.

The Notice Pleading Restoration Act will require the Federal courts to test the sufficiency of a complaint's allegations under the well-established standards that prevailed in the Federal courts until Twombly. I urge its passage.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 220—SUPPORTING THE DESIGNATION OF SEPTEMBER AND ''NATIONAL ATRIAL FIBRILLATION AWARENESS MONTH'' AND ENCOURAGING EFFORTS TO EDUCATE THE PUBLIC ABOUT ATRIAL FIBRILLATION

Mr. FEINGOLD (for himself, Ms. COLLINS, Mr. DORGAN, and Mr. CRAPO) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 220

Whereas atrial fibrillation is a cardiac condition in which electrical pulses disrupt the regular beating of the atria in the heart, hampering the ability of the atria to fill the ventricles with blood, and subsequently causing blood to pool in the atria and form clots;

Whereas atrial fibrillation is the most common cardiac malfunction and affects at least 2,200,000 people in the United States, with increased prevalence anticipated as the population of the United States ages;

Whereas atrial fibrillation is associated with an increased, long-term risk of stroke, heart failure, and mortality from all causes, especially among women;

Whereas atrial fibrillation accounts for approximately ⅓ of hospitalizations for cardiac rhythm disturbances;

Whereas, according to the American Heart Association, 3 to 5 percent of people in the United States aged 65 and older are estimated to have atrial fibrillation;

Whereas atrial fibrillation is recognized as a major contributor to strokes, with an estimated 15 to 20 percent of strokes occurring in people afflicted with atrial fibrillation;

Whereas it is estimated that treating atrial fibrillation costs approximately $3,600 per patient annually for a total cost burden in the United States of approximately $15,700,000,000;

Whereas obesity is a significant risk factor for atrial fibrillation;

Whereas better education for patients and health care providers is needed in order to ensure timely recognition of atrial fibrillation symptoms;

Whereas more research into effective treatments for atrial fibrillation is needed; and

Whereas September is an appropriate month to observe as National Atrial Fibrillation Awareness Month: Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of September as ''National Atrial Fibrillation Awareness Month'';

(2) supports efforts to educate people about atrial fibrillation;

(3) recognizes the need for additional research into treatment for atrial fibrillation; and

(4) encourages the people of the United States and interested groups to observe and support National Atrial Fibrillation Awareness Month through appropriate programs and activities that promote public awareness of atrial fibrillation and potential treatments for atrial fibrillation.

SENATE RESOLUTION 221—EXPRESSING SUPPORT FOR THE GOALS AND IDEALS OF THE FIRST ANNUAL NATIONAL WILD HORSE AND BURRO ADOPTION DAY TAKING PLACE ON SEPTEMBER 26, 2009

Mr. REID (for himself, Mrs. FEINSTEIN, and Mr. ENSIGN) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 221

Whereas, in 1971, in Public Law 92–195 (commonly known as the ''Wild Free-Roaming Horses and Burros Act'') (16 U.S.C. 1331 et seq.), Congress declared that wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West;

Whereas, under that Act, the Secretary of the Interior and the Secretary of Agriculture have responsibility for the humane capture, removal, and adoption of wild horses and burros;

Whereas the Bureau of Land Management and the Forest Service are the Federal agencies responsible for carrying out the provisions of the Act;

Whereas a number of private organizations will assist with the adoption of excess wild horses and burros, in conjunction with the first National Wild Horse and Burro Adoption Day; and

Whereas there are approximately 31,000 wild horses in short-term and long-term holding facilities, with 18,000 young horses awaiting adoption: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals of a National Wild Horse and Burro Adoption Day to be held annually in coordination with the Secretary of Interior and the Secretary of Agriculture;

(2) recognizes that creating a successful adoption model for wild horses and burros is consistent with Public Law 92-195 (commonly known as the ''Wild Free-Roaming Horses and Burros Act'') (16 U.S.C. 1331 et seq.) and beneficial to the long-term interests of the people of the United States in protecting wild horses and burros; and

(3) encourages citizens of the United States to adopt a wild horse or burro so as to own a living symbol of the historic and pioneer spirit of the West.

SENATE CONCURRENT RESOLUTION 34—EXPRESSING THE SENSE OF CONGRESS THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED TO HONOR THE CREW OF THE USS MASON DE–529 WHO FOUGHT AND SERVED DURING WORLD WAR II

Mr. BURRIS submitted the following concurrent resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. CON. RES. 34

Whereas the USS Mason DE–529 was the only United States Navy destroyer with a predominantly black enlisted crew during World War II;

Whereas the integration of the crew of the USS Mason DE–529 was the role model for racial integration on Navy vessels and served as a beacon for desegregation in the Navy;

Whereas the integration of the crew signified the first time that black citizens of the United States were trained to serve in ranks other than cooks and stewards;

Whereas the USS Mason DE–529 served as a convoy escort in the Atlantic and Mediterranean Theatres during World War II;